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# CITY OF SAINT PAUL Christopher B. Coleman, Mayor

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**DATE:** January 25, 2011

TO: Comprehensive Planning Committee

FROM: Anton Jerve and Sarah Zorn, PED staff

**SUBJECT:** Potential Application of Bonus Densities in T4 Zoning Districts

#### **Background**

Among the testimony at the public hearing were several comments suggesting that the City is "giving away" too much density and rather than having no density or height limits in T4 districts the City should consider limiting density and offer bonus density in exchange for public benefits, including affordable housing. Currently, Saint Paul only offers density bonuses in the B4 and B5 zoning districts for arcades, plazas and setbacks.

#### **Issues**

#### Market

Until the LRT line is built and the market improves it is unlikely that bonus densities would even be used. Market conditions need to be such that exceeding the maximum permitted density is desirable and profitable. To date, this has not been the case along University Avenue. Indeed, some projects have struggled to meet the 1.0 FAR minimum; elsewhere in the city, projects have struggled to meet the 0.5 FAR minimum in TN zones.

However, it can be argued that although bonuses may not be used today, it is best to establish them and an expectation for them now because it may be more difficult to establish them in the future given the way the code is written. In other words, if the city offers unlimited density for a period of time, it may create issues in the future to go back and "cap" density at a later date when the market is hotter. There may be validity to this argument if densities previously allowed by-right are changed to only be allowed with a bonus density. This could be construed as down-zoning to extract public benefits from property owners.

# **Limiting Density**

When bonus density is used as an incentive, a maximum density must be established. The draft T4 zoning has no proposed maximum. The table below illustrates the continuum of density and height maximums among relevant zoning districts. A logical cap for T4 would fall within the 3.0 – 5.0 FAR range. For scale, most TN and TOD projects such as Emerald Gardens, 808 Berry, Frogtown Square, Upper Landing, and Oxford Grand all fall under 3.0 FAR. From a policy perspective, the maximum FAR should allow for enough density to support TOD, while being low enough for bonus densities to be attractive to developers.

	T2	В3	T3	T4	B5	B4
Max FAR	2.0 – 3.0	2.0	3.0	?	5.0	8.0
Max	35 (65 with	30	35 – 55	75 (None	None	None
height	CUP)		(90 with CUP)	with CUP)		

# Selecting Desired Benefits for Bonuses

The public testimony recommended allowing bonus density for affordable housing. In cities offering bonus densities, affordable housing is a common bonus option, however it is typically offered as one of a suite of several "public benefits" that are exchanged for bonus. Portland, OR for example had, until the code was recently revised, 18 different bonus options. Best practices indicate that bonuses should be offered for a small number of public benefits that reflect the City's most desired development goals and plan objectives. Too many bonuses are confusing to developers and difficult to administer for the municipality. Only offering one bonus may not allow enough flexibility in the program, would restrict potential benefits to the City, and would not allow developers more than one way to bonus in zones where several public benefits may be most needed. The table below shows potential candidates for density bonuses.

# Public benefits identified in CCDS and station area plans and commonly used for density bonuses

Public Benefit	Justification	Note	
Affordable	Supports City policy	Would need to address both	
housing		ownership and rental	
Right-of-way	Provides new streets, wider	Finished streets or just land?	
dedication	sidewalks, and alleys identified in		
	SAP's		
Underground	Supports SAP goals		
parking			
Historic	Supports SAP and HPC goals	Bonus for full building and	
preservation		façade preservation	
Green/sustainable	Supports City policy	Only for projects not already	
development		required to meet green	
		policy	
Parkland	Supports City policy, SAP goals	For \$ contributions above	
dedication		ordinance requirement	
contribution			

# Choosing a Fair Bonus

Once the menu of potential public benefits to be allowed for bonus densities is selected, a reasonable bonus for each option has to be established. Ideally, the density bonus should off-set the cost of providing the benefit to such an extent that it brings the cost per square foot low enough to make providing the benefit worthwhile without the City "giving away" density. This can be a delicate balance. Portland hired a consultant to evaluate their bonuses and the extent to which their bonuses were either too high or low. It is recommended that if the City is to provide bonuses, the ordinance should be reviewed by experts to modify bonuses as needed.

## Ease of Administration

Another consideration is ease of administration. The code should be written in such a way that bonuses are as discreet as possible and do not require ongoing monitoring by the City. Where monitoring is a necessity, such as for affordable housing, the City should use established, outside processes for monitoring.

## **Achieving Goals**

Finally, the goal of offering bonus density should be providing quality public benefits. This entails only asking for those benefits that can be reasonably provided by developers. When bonus densities were originally written into zoning code, many municipalities (including Saint Paul's current code) offered bonus densities for arcades and plazas. The vast majority of these spaces did not live up to the intent of the code and often were fenced off from the public. For this reason, whether or not bonus

densities are include for the T4 zone, it would be worthwhile to review and revise the bonus densities section of the Saint Paul zoning code. In any case, any bonus density code ordinance should be reviewed regularly to ensure it remains both effective and applicable.

## **Precedents**

## Bonus Densities in the Metro Area and Model TOD Areas

City	Location	Base FAR Max	Bonuses for
Saint Paul	Downtown	5.0 – 8.0	Plazas
			Arcades
			Setbacks
Minneapolis	TOD	2.5 – 3.0	Structured parking
			Affordable housing <sup>3</sup>
			1 <sup>st</sup> floor commercial
			Other amenities (PUD)
Bloomington	TOD	2.0	1 <sup>st</sup> floor commercial
			Underground parking
			Plaza/Open space
			Affordable housing <sup>4</sup>
			Public art
			Sustainable design
Portland, OR	TOD	4.0	Housing
			Open space
			Eco-roof
			Day care
			Underground parking
			[additional bonuses by station area]
Arlington, VA	TOD	3.8 – 4.8	Affordable housing <sup>5</sup>
			Historic preservation
			Sustainable design
Austin, TX	TOD	2.0	Affordable housing
			[under development]

# Recommendation

Allow density bonuses in T4 and revise bonus density section of the Zoning Ordinance with outside expert review. The revisions will include revised bonuses for B4, B5 & T4 districts including bonuses for the public benefits listed above and a base density limit for T4 districts.

#### **Additional Resource**

PAS Report Number 494: Incentive Zoning – Meeting Urban Design and Affordable Housing Objectives; American Planning Association, 2000

- (i) The development agreement [shall] must include provisions ensuring that rental units receiving the bonus will continue to remain affordable for thirty years.
- (ii) The development agreement [shall] must include provisions ensuring that owned units receiving the bonus will initially be sold at an affordable level and that mechanisms are in place to ensure that the owned units receiving the bonus will continue to remain affordable when resold in the future.
- (iii) In no case may the affordable housing floor area ratio bonus exceed 1.0.
- <sup>5</sup> (a) Affordable Housing: When a project includes affordable dwelling units (ADUs), pursuant to the definition of ADUs in use by the County at the time of the application, or an equivalent cash contribution, the County Board may permit up to an additional 1.5 FAR of density, as set forth below: i. For residential rental projects, ADUs shall be provided on-site as part of the Use Permit Project as a total of at least 10% of the gross square footage (GFA) of the bonus density permitted under this subsection 31.A.17.d (12)(a) when the required 10% of the GFA is equal to four thousand (4000) square feet or more. ii. For all other projects, ADUs shall be provided on-site as a total of at least 10% of the gross square footage of the bonus density permitted under this subsection 31.A.17.D (12)(a), or the applicant shall make a cash contribution to the Affordable Housing Investment Fund of \$15.00 per square foot of the gross floor footage of the bonus density. The cash contribution will be indexed to the Consumer Price Index for Housing in the Washington-Baltimore MSA as published by the Bureau of Labor Statistics and shall be adjusted annually based on the January changes to such index for that year, beginning in January, 2010. Revised amounts apply only to Use Permit plans filed after the adjustment date. Amounts for the calculation of the cash option are established at the time the Use Permit application is filed. Bonus density permitted through a cash contribution shall be accommodated on-site and shall not be available to transfer to another site.

<sup>&</sup>lt;sup>1</sup> Examples of floor area ratios along University: Griggs Midway building -1.5; Chittenden & Eastman building -4.02; Specialty Building -3.1; Upper Landing -2.83; 808 Berry -2.5; Zimmerman Building -1.0; Spruce Tree Center -1.8; Old Home building 0.8.

<sup>&</sup>lt;sup>2</sup> Evaluation of Entitlement Bonus and Transfer Programs Portland's Central City: Report on Findings, November 2007; http://www.portlandonline.com/bps/index.cfm?a=177368&c=52119

<sup>&</sup>lt;sup>3</sup> (b) Bonus for affordable housing. The maximum number of dwelling units and the maximum floor area ratio of new cluster developments and new multiple-family dwellings of five (5) units or more may be increased by twenty (20) percent if at least twenty (20) percent of the dwelling units meet the definition of affordable housing. (2002-Or-181, § 1, 11-22-02)

<sup>&</sup>lt;sup>4</sup> Affordable housing bonus. Developments including affordable housing as defined by the Metropolitan Council are eligible for bonus floor area. Three square feet of additional floor area is allowed per square foot of affordable housing unit floor area subject to the following requirements.